

**(2012) 08 DEL CK 0438**  
**In the Delhi High Court**  
**Case No : Writ Petition (C) 2923 of 2010**

Anil Kumar

APPELLANT

Vs

State Bank of India

RESPONDENT

**Date of Decision :** 01-08-2012

**Acts Referred:**

**Citation :** (2012) 08 DEL CK 0438

**Hon'ble Judges :** Suresh Kait, J

**Bench :** Single Bench

**Advocate :** Tariq Adeeb, for the Appellant; S.L. Gupta and Mr. Dhananjay kr. Jha, for the Respondent

**Final Decision :** Allowed

## Judgement

Suresh Kait, J.—Vide the instant petition, petitioner is seeking direction to appoint him in accordance with the letter of advertisement No. CRPD/PO/2008-09/04 dated 19.07.2008. Also seeking to quash and set aside the order dated 21.06.2009 issued by the respondent whereby the selection of the petitioner as Probationary Officer has been withdrawn. The post of Probationary Officer was advertised on 25.07.2008. Petitioner applied for the same and declared qualified. Thereafter, he received letter dated 20.04.2009 calling him for medical examination. On 20.04.2009, he was referred to All India Institute of Medical Sciences (AIIMS) by Dr. Jayanti P. Gupta, Sr. Medical Officer of the Respondent Bank, with note as under:

Referred to Haematologist for the opinion. Candidate is selected for the job of Probationary Officer in SBI. He is suffering from Haemophilia. Kindly advise whether the candidate is fit for the job under the Central Government (SBI Job Rules).

2. Petitioner appeared before Dr. Pravas Mishra, of AIIMS who examined him and issued Certificate as under:-

This candidate has been selected in SBI as Probationary Officer. He is suffering

from Haemophilia B for which he requires factor support. I understand that this job involves writing and computer operating. His medical condition (Haemophilia B) is not an impediment to this job as Probationary officer in SBI.

3. From perusal of the Certificate, it is clear that the medical condition of the petitioner Haemophilia B is not an impediment to this job as Probationary Officer in SBI.

4. Despite that respondent Bank communicated to the petitioner that as Bank's Chief Medical Officer has declared him medically unfit for Bank's Service, therefore his selection as Probationary Officer was withdrawn.

5. Being aggrieved, petitioner filed a Writ Petition (C) No. 11579 of 2009 wherein following direction was passed:

In the peculiar facts of the case. The petitioner is called upon to make a comprehensive representation to the respondent-Bank within four weeks from today and the respondent-bank is directed to decide the same after giving an opportunity of hearing to the petitioner and by passing a speaking order, while taking into consideration "The persons with Disabilities (Equal Opportunities protection of Rights and Full Participation) Act, 1995", within a period of eight weeks. The fact of the Representation be communicated to the petitioner within two weeks thereafter.

6. Subsequent events of this case have been recorded by this Court vide order dated 23.05.2012 as under:

In pursuance to order dated 10.09.2009 passed by this Court, respondents passed order dated 21.01.2010 whereby, it is observed as under:-

As per medical science there is no cure for hemophilia. In severe hemophilia B, as in the case of Shri Anil Kumar, the complications are quite severe. It causes deep internal bleeding and joint damage which may permanently impair the joints thereby leading to development of arthritis. In the case of Shri Anil Kumar, the fact that sever hemophilia has impaired his joints permanently whereby making him handicapped cannot be ruled out. Besides, this intracranial hemorrhage cannot be ruled out in the case of persons afflicted with severe hemophilia which is a serious medical emergency. It can cause disorientation, nausea, loss of consciousness, brain damage and even death. In view of the said complications, Shri Anil Kumar is incapable of rendering log and uninterrupted service to the Bank which is a touchstone for appraising the fitness of a candidate for service in the Bank.

In severe hemophiliacs, such as Shri Anil Kumar, even a minor injury could result in blood loss lasting days, weeks, or not even healing completely. The averment made by Shri Anil Kumar in his representation that severe hemophilia can be fully controlled and managed with the help of anti hemophilic factor (AHF) is not medially true because as per medical science prophylactic treatment which involves the infusion of clotting factor in order to keep clotting level sufficiently

high although somewhat effective, is not a complete treatment in itself. Moreover, the same is not available in developing countries such as India since, the average cost of the same is extremely high per year.

Though, I feel sympathetic to the medial condition of Shri Anil Kumar, nonetheless, I am bound by the standards adopted by the Bank with regard to judging the fitness of a candidate for appointment as per the rules prescribed by the Bank, which are to be adhered to objectively and clinically. In view of the aforesaid reasoning, the decision of the Bank declaring Shri Anil Kumar medically unfit for the post of Probationary Officer is in consonance with the Bank's policy and Rules and does not suffer from any infirmity, whatsoever. Accordingly, I find no merit in the representation and I reject the same.

2. The petitioner has annexed the opinion given by the Doctor from AIIMS as under:-

This candidate has been selected in SBI as Probationary Officer. He is suffering from Hemophilia B for which he requires factor support. I understand that the job involves writing and computer operating. His medical condition (Hemophilia B) is not an impediment to this job as Probationary Officer in SBI.

3. In the facts and circumstances of the case and with the consent of Id. Counsel for the petitioner, issue involved in the instant petition is referred to the Medical Board.

4. Id. Counsel has further stated on instructions that whatever the Medical Board will decide, he will not dispute the same.

5. At his request and in the interest of justice, petitioner shall appear before the Director, AIIMS on 01.06.2012, who shall constitute a Medical Board. Thereafter, date fixed shall be communicated to petitioner. The Medical Board shall also look into the order passed by the respondent dated 21.01.2010 and file the report before this court.

6. Accordingly, respondents are directed to send all the medical records of the petitioner before the Board.

7. At request of Id. Counsel appearing on behalf of the petitioner, the Director, AIIMS was directed to constitute a Medical Board and thereafter examine the petitioner.

8. Pursuance to the said order, Medical Board was constituted, which was headed by Dr. Hira Prasad Pati with Dr. M. Mahapatra and Dr. S.K. Barua. A Medical Board meeting was held on 05.06.2012 at 2 PM at AIIMS. The report submitted by the Medical Board is as under:-

As per available medical records, it is deducted that Mr. Anil Kumar is a patient with Haemophilia B Disease with bilateral knee joint involvement as target joints. Haemophilia B is a hereditary disorder, which can be prevented by prophylactic factor support. There is no record of any joints involvement of Mr. Anil Kumar or

the frequency of his bleeding episodes or whether he is on any prophylaxis. Therefore, in reference to earlier opinion of Doctor from AIIMS as quoted in the Hon"ble Court order, this Board is in concurrence to the fact that there is no impediment for Mr. Anil Kumar to join his job as Probationary officer in State of Bank of India.

9. On perusal of the said report, it is emerged that petitioner is a patient with Haemophilia B disease with bilateral knee joint involvement as target joints. The Haemophilia B is a hereditary disorder, which can be prevented by prophylactic factor support.

10. It is also recorded that there is no record of any joints involvement of the petitioner or the frequency of his bleeding episodes or whether he is on any prophylaxis.

11. Petitioner is a 25-27 years old with Haemophilia, who was selected as Probationary Officer in State Bank of India in the disability quota as he is orthopedically disabled with disability being of a lower limbs only and he walks with the assistance of clutches. He cleared three-tier examination and finally selected by the respondent-bank. The two medical opinions, one from Dr. Pravas Kr. Mishra (AIIMS) and another the Medical Board, which was constituted in pursuance of the direction passed by this Court, are in favour of the petitioner. Therefore, I have no hesitation to say that the petitioner is medically fit for the post.

12. In view of the above submission, the impugned order dated 21.06.2009 is set aside.

13. Consequently, respondent is directed to appoint him as Probationary Officer with all consequential benefits. However, since he has not worked on the post, therefore, he is not entitled for any back wages.

14. Instant petition is allowed. No order as to costs.

CM. No. 5811/2010

In view of the above, instant application become infructuous and disposed of as such.